



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF JANUARY 13, 2005**

CALL TO ORDER: Chairperson Harrison called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Harrison, Commissioners King, Lydon, and Sharma

ABSENT: Commissioner Weaver

STAFF PRESENT: Jeff Schwob, Planning Director
Larissa Seto, Senior Deputy City Attorney II
Wayne Morris, Associate Planner
Kathleen Chu, Senior Civil Engineer
Alice Malotte, Recording Clerk

APPROVAL OF MINUTES: Regular Minutes of November 18 and December 2, 2004 were approved as submitted.

CONSENT CALENDAR

There were no items on consent.

Chairperson Harrison announced that video and steno captioning would not be available at this meeting. He also noted that the two new Planning Commissioners (Dirk Lorenz and Sue Chan) were in attendance.

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

Item 1. **LINDA VISTA SUBDIVISION – 2650 Bruce Drive – (PLN2005-00022)** – to consider a Conditional Use Permit to allow for the establishment of a private park, a Vesting Tentative Tract Map 7569, Subdivision Modifications, Preliminary Grading Plan and a Zoning Administrators Permit (Fence Height Exception) approval for the development of 30 single-family residential dwelling units and a small private park open to the public in the Mission San Jose Planning Area. A Mitigated Negative Declaration was approved on November 23, 2004 for the Rezoning of the site to an R-1-6 District.

Adam Tenant, Summerhill Homes, introduced others on his team and stated that his company had received architectural awards for some of their developments. After listening to the neighbors' comments and concerns during the last hearing, it was decided that this

project would consist of 30 single-family homes with three of them being below-market homes. A public open space with a play structure would be available to the surrounding community. The original grade on Bruce Drive would be lowered, the front yards would have a 20-foot setback and the backyards would be a minimum of 25 feet.

Commissioner King asked what these homes would sell for and their square footage.

Mr. Tenant replied that they would sell for approximately 1.2 million to 1.3 million dollars each. The market rate homes would be approximately 3,500 square feet with the below market rate (BMR) homes being approximately 2,000 square feet.

Commissioner Sharma asked if the homeowners association would maintain the public open space and carry liability insurance and if the park would always be open to the public.

Mr. Tenant stated that the homeowners association would maintain and insure the open space and an access easement would allow the public access to it.

Senior Deputy City Attorney Seto clarified that the public access agreement would allow reasonable public use. She agreed that the homeowners association would maintain and insure the park.

Chairperson Harrison asked if the public accessibility would be in perpetuity.

Senior Deputy City Attorney Seto stated that would be part of the agreement.

Chairperson Harrison then asked what the timeline was for the project.

Mr. Tenant replied that the demolition was scheduled to take place within 30 days; sales should start in October; first occupancy should be in early 2006.

Chairperson Harrison opened the public hearing.

Steve Vaatveit, resident across the street from the property, stated that he was in favor of the project, because within the last two and one-half years, the property had become an "attractive nuisance". There had been many police calls in which several arrests had been made. It was a good project by a good company. The applicant had always returned his calls and many other neighbors were happy about the project.

Commissioner Sharma asked him why he had changed his mind.

Mr. Vaatveit replied that he had always been in favor of the development, but had not spoken during the first hearing because he felt it was obvious that it was better than what was presently there. However, he did speak in favor of the development before the City Council.

Debra Pearson, neighbor, stated that she had spoken against the development before, but now favored it and had also spoken before the City Council, because the applicant had worked with the neighbors, the Commission and the City of Fremont. She had high praise for them and their great plans. The pocket park was important to the neighborhood. She encouraged approval of the project.

Peter Zhoe, neighbor, stated that he originally was against the project because of the high density and because of the loss of open space. He now approved, because he appreciated the applicant's effort to reduce the number of homes that were originally planned and their plan to add the public park. However, he asked if this project were approved at this meeting, would that put the neighbors and any concerns they may still have "out of the picture." He

still had concerns about the proposed cutting of the trees but expected that he and the neighbors would be able to work with the applicant about them.

Planning Director Schwob replied that this development would undergo no further public process, if the Commission approved the project.

Robert Walker, Bruce Drive resident, stated that he had always been in favor of this development. After mentioning various other plans that had been envisioned for this property, he stated that this was “the best that the City could get.” As a building inspector in the City of Newark, he was familiar with the applicant and felt they were a good company. The center of the development was a good location for the park, which should discourage problems. He encouraged the Commission to approve the project.

Ben Barhaghi, Bruce Drive resident across the street from the development, stated that he still had concerns about the plan, such as, the new access onto Bruce Drive in front of his home would create more traffic, because Benbow Drive residents would probably use it. The access would be better if it was shifted further down Bruce Drive.

Mr. Tenant answered the concerns:

- City arborist had recommended retention of three trees, one of which was on Bruce Drive
- Mitigation for removed trees would be the planting of 30-inch box trees
- Park would be located to minimize overflow lighting
- Nearby residents were expected to self-police the park
- Two street outlets from development would lessen traffic impact, as Benbow Drive, only, access would not help
- Street access closer to Meredith Drive would not help traffic

Commissioner Harrison closed the public hearing.

Commissioner Lydon asked why there were two accesses.

Planning Director Schwob replied that City Codes required that there be two accesses from a development of 25 or more homes.

Commissioner King stated that he would support the project and offered to make a motion.

Commissioner Sharma reiterated that he wanted to be sure that public access to the open space would always be available.

Senior Deputy City Attorney Seto reassured him that it would stay.

Commissioner Harrison asked if sprinklers would be installed inside the homes.

Planning Director Schwob stated that they would, as this was new construction.

Commissioner Harrison asked where the park trashcans would be placed, as he could not see them on the drawing.

Associate Planner Morris replied that one or two would be worked into the plan during the Development Organization review process.

Commissioner Sharma stated that he had initially voted against approval, because of the public comments made during the first hearing. However, he would now approve this project because the public park had been added. He thanked the applicant for working with the neighbors and alleviating their concerns.

Commissioner Lydon noted that most of the speakers were happy with the development and he thanked "those who made this happen."

Commissioner Harrison echoed all the comments made by the other Commissioners. He noted that the State was talking about taking land use control from the local cities and counties and this was a good example of why it should stay with the local agencies.

IT WAS MOVED (KING/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (4-0-0-0-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

FIND THAT THE PREVIOUSLY APPROVED MITIGATED NEGATIVE DECLARATION WITH A CERTIFICATE OF FEE EXEMPTION THE PROPOSED PROJECT AND NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED;

AND

APPROVE THE CONDITIONAL USE PERMIT FOR PLN2005-00022 TO ALLOW FOR THE ESTABLISHMENT OF A PRIVATE PARK ON LAND ZONED FOR RESIDENTIAL USE, SUBJECT TO FINDINGS AND CONDITIONS AS INDICATED IN EXHIBIT "B";

AND

FIND PLN2005-00022 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND HOUSING ELEMENTS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FIND PLN2005-00022 (VESTING TENTATIVE TRACT MAP 7569 AND PRELIMINARY GRADING PLAN), AS PER EXHIBIT "C" (VESTING TENTATIVE TRACT MAP) AND EXHIBIT "E" (PRELIMINARY GRADING PLAN) FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

FIND THAT THE SUBDIVISION MODIFICATIONS (EXHIBIT "G") ARE WARRANTED BECAUSE OF THE SITE CONFIGURATION AND DESIGN OF THE PROPOSED DEVELOPMENT;

AND

APPROVE VESTING TENTATIVE TRACT MAP 7569 (AS SHOWN ON EXHIBIT "C") SUBJECT TO THE FINDINGS AND CONDITIONS IN EXHIBIT "D" AND PRELIMINARY GRADING PLAN (AS SHOWN ON EXHIBIT "E") SUBJECT TO THE FINDINGS AND CONDITIONS IN EXHIBIT "F";

AND

APPROVE TREE PRESERVATION PLAN FOR LOT 1 (AS SHOWN ON EXHIBIT "H") AS IT RELATES TO THE BUILDING SETBACK IN RELATIONSHIP TO THE EXISTING TREE;

AND

APPROVE PLN2005-00022, ZONING ADMINISTRATOR PERMIT (EXHIBIT "I") AS IT RELATES TO A FENCE HEIGHT EXCEPTION, SUBJECT TO THE FINDINGS AND CONDITIONS IN EXHIBIT "J".

The motion carried by the following vote:

AYES:	4 – Harrison, King, Lydon, Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
Distribution of Approved Planning Commission 2005 Calendar

Commissioner Lydon asked what was different about the October 6th meeting. He also asked if Planning Director Schwob had received his e-mail concerning the cyber café.

Planning Director Schwob explained that both HARB and the Planning Commission would meet on that date, thus, the unusual color code. He had not seen the email but would discuss it with Commissioner Lydon after the meeting.

- Information from Commission: Commission members may report on matters of interest.

Meeting adjourned at 8:00 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte
Recording Clerk

Jeff Schwob, Secretary
Planning Commission